

**ASIAN CONSTRUCTION AND DEVELOPMENT CORPORATION,
PETITIONER, VS. CONSTRUCTION INDUSTRY ARBITRATION
COMMISSION AND ROMARC INDUSTRIAL RESOURCES,
RESPONDENTS.**

G.R. No. 100149. February 08, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for review on certiorari, with a prayer for the issuance of a writ of preliminary injunction and/or temporary restraining order, of an Award rendered by the Construction Industry Arbitration Commission in CIAC Case No. 10-90, entitled: "Romarc Industrial Resources, claimant, versus Asian Construction Development Corporation, respondent," which ordered the respondent therein to pay the claimant the amount of P291,648.08.

The antecedent facts of the case are as follows:

Sometime in July 1990, the herein petitioner, Asian Construction and Development Corporation (ASIAKONSTRUKT, for short), a domestic corporation engaged in the business of general contracting, and the private respondent, Romarc Industrial Resources (ROMARC, for short), a single proprietorship owned and operated by Oscar D. Mora, entered into a "Subcontract Agreement" whereby the former sub-contracted to the latter the painting and varnishing work at the Clarion Electronics Factory then being constructed at the Cavite Processing Zone in Rosario, Cavite, for the amount of P730,776.00.[1] The parties therein agreed, among others, that the subcontractor ROMARC shall complete the work on 15 September 1990 "in strict adherence to the 'Construction Manpower Schedule'", appended to the Agreement as Annex 'C'[2] and in case the work is delayed, ASIAKONSTRUKT would assist ROMARC or take over the remaining work with all costs chargeable to the subcontractor, plus 20% thereof as supervision fee.[3] The parties further agreed that any dispute in connection with said contract will be settled amicably by them, otherwise, the dispute will be submitted to arbitration pursuant to Executive Order No. 1008, otherwise known as the "Construction Industry Arbitration Law." [4]

On 31 October 1990, ROMARC filed a request for arbitration with the Construction Arbitration Commission alleging that it completed the contracted work within the stipulated period and had fully complied with its duties under the Subcontract Agreement but that ASIAKONSTRUKT failed to comply with its obligation to pay the balance of the contract price despite demands therefor, and praying that ASIAKONSTRUKT be ordered to pay ROMARC the amount of P309,234.44 with legal interest thereon from 15 September 1990, as well as actual, moral and exemplary damages.[5]

ASIAKONSTRUKT filed its Answer to the complaint, alleging, by way of defense, that ROMARC incurred in delay in executing the subcontracted work prompting ASIAKONSTRUKT to intervene and assist ROMARC in the completion of the painting and varnishing work incurring, as a result thereof, numerous expenses which are chargeable to ROMARC.[6]

The controversy was referred to an Arbitral Tribunal composed of Engineers Pablo D. Arevalo, Jr., Lauro M. Cruz, and Horacio Dimatatac.[7] After hearing the parties, the Arbitral Tribunal rendered an AWARD on 13 May 1991 finding that ROMARC completed the work on 15 September 1990 in accordance with the Subcontract Agreement and, accordingly, granted its claim for the unpaid balance of the contract price in the amount of P291,648.08.[8]

Hence, the present recourse by the petitioner No restraining order was issued so that on 17 June 1991, the respondent COMMISSION proceeded to enforce the AWARD.[9]

Commenting on the petition, counsel for the private respondent, ROMARC, contends that the petition raises purely questions of fact which have become moot upon the execution of the AWARD sought to be reviewed, and prayed that the petition be dismissed.[10]

We find no justification for the modification or reversal of the disputed decision of the respondent Arbitration Commission. Nor do we find any reason to give due course to the petition. The issues raised in the petition are mainly factual and there is no showing that the said issues have been resolved arbitrarily or without basis; on the contrary, the findings of the said Arbitration Commission are supported by evidence of record. Settled is the rule that in petitions for certiorari, as a mode of appeal, only questions of law distinctly set forth may be raised. Such questions have been defined as those that do not call for any examination of the probative value of the evidence presented by the parties.[11] A petition for certiorari "will lie only where a grave abuse of discretion or an act without or in excess of jurisdiction on the part of the Voluntary Arbitrator is clearly shown. It must be borne in mind that the writ of certiorari is an extraordinary remedy and that certiorari jurisdiction is not to be equated with appellate jurisdiction. In a special civil action of certiorari, the Court will not engage in a review of the facts found nor even of the law as interpreted or applied by the Arbitrator unless the supposed errors of fact or of law are so patent and gross and prejudicial as to amount to a grave abuse of discretion or an excess de pouvoir on the part of the Arbitrator." [12] Since the issues raised by the petitioner in its assignment of errors are mainly factual as it would necessitate an examination and re-evaluation of the evidence on which the arbitrators based their decision, the petition may not be given due course.

ACCORDINGLY, the instant petition for certiorari should be, as it is hereby, **DISMISSED** with costs against petitioner.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

[1] Annex "A" of Petition, Rollo, p. 41

[2] Clause 3.0 of said Agreement

[3] Clause 6.0 of said Agreement

[4] Clause 11.0 thereof

[5] Annex "B" of Petition, Rollo, p. 49

[6] Annex "C" of Petition, Rollo, p. 61

[7] Annex "D" of Petition, Rollo, p. 77

[8] Annex "E" of Petition, Rollo, p. 83

[9] Rollo, p. 135

[10] Id., p. 150

[11] Uniland Resources vs. Development Bank of the Phil., G.R. No. 95909, Aug. 16, 1991, 200 SCRA 751, and cases cited.

[12] Sime Darby Pilipinas, Inc. vs. Deputy Administrator, etc., G.R. No. 90426, Dec. 15, 1989, 180 SCRA 177, 182; See also Chung Fe Industries (Phil.) Inc. vs. Court of Appeals, G.R. No. 96283, Feb. 25, 1992, 206 SCRA 545.

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